UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

FILED

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CLERK, U.S. DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA

BY: DEPUTY

UNITED STATES OF AMERICA	) **Magistrate Docket No.** '08 MJ 0729
Plaintiff	) COMPLAINT FOR
v.	) VIOLATION OF:
	) **TITLE 18 U.S.C. § 1544**
Gabriel VIZCARRA BARRAZA	) **Misuse of Passport (Felony)**
AKA: Francisco Javier TORRES	)
Ruben LEAL ORDORICA	) **TITLE 18 U.S.C. § 1546**
	) **Fraud and Misuse of Visas, Permits,**
	) **and Other Documents(Felony)**

The undersigned complainant, being duly sworn, states:

Count 1

On or about March 6, 2008, within the Southern District of California, defendant Gabriel VIZCARRA BARRAZA did knowingly and willfully use a passport issued or designed for the use of another, with the intent to gain admission into the United States in the following manner, to wit: Defendant applied for entry to the United States by presenting a US passport number 500604403 issued in the name Francisco Javier TORRES, to a Department of Homeland Security, Customs and Border Protection Officer, knowing full well that he was not Francisco Javier TORRES, that the passport was not issued or designed for his use, and that he is not a United States citizen entitled to a U.S. Passport; in violation of Title 18, United States Code, Section 1544.

Count 2

On or about March 5, 2008, within the Southern District of California, defendant Gabriel VIZCARRA BARRAZA, in applying for entry into the United States at the San Ysidro Port of Entry did attempt to use or possess a document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States knowing it to have been procured by fraud or unlawfully obtained, to wit, US Border Crossing Card (Laser Visa), bearing the Ruben LEAL ORDORICA; in violation of Title 18, United States Code, Section 1546(a).

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

Richard M. Escott
Senior Special Agent
U.S. Department of State
Diplomatic Security Service

SWORN AND SUBSCRIBED TO before me
This 7th day of March, 2008.

UNITED STATES MAGISTRATE JUDGE

CATHY ANN BENCIVENGO
U.S. MAGISTRATE JUDGE

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PROBABLE CAUSE STATEMENT & STATEMENT OF FACTS

I, Richard Michael Escott, being duly sworn, declare under penalty of perjury that the following statement is true and correct:

1. I am a Senior Special Agent (SSA) with the U.S. Department of State, Diplomatic Security Service (DSS) assigned to the San Diego, CA Resident Office. I have been so employed for eight years and have investigated numerous violations involving the false application for and misuse of United States Passports and Visas.

2. During the performance of my duties, I have obtained evidence that Gabriel VIZCARRA BARRAZA used the passport issued for the use of another and used a U.S. visa obtained by fraud. This Affidavit is made in support of a complaint against DEFENDANT for violations of Title 18, U.S.C., Section 1544, Misuse of a Passport and Title 18, U.S.C., Section 1546, Fraud and Misuse of Visas, Permits, and Other Documents.

3. On 03/06/2008, at approximately 0945 hours, DEFENDANT presented himself to a Department of Homeland Security, Customs and Border Protection (CBP) Officer at the pedestrian lines of the San Ysidro Port of Entry, to apply for admission into the United States. DEFENDANT identified himself with U.S. Passport number 500604403 bearing the name Francisco Javier TORRES, DPOB 09/05/1962, Mexico, and a photograph that did not bear the likeness of DEFENDANT. DEFENDANT was referred for secondary inspection. In secondary inspection, a fingerprint check revealed that DEFENDANT had attempted to gain entry into the U.S. through the Otay Mesa Port of Entry using a false U.S. Border Crossing Card (Laser Visa) a had been formally removed to Mexico on or about 03/05/2008.

4. On 03/06/2008, at approximately 1630 hours the Affiant was advised by a CPB Officer at the San Ysidro POE that DEFENDANT had been detained at the secondary inspection area of the San Ysidro POE.

5. On 03/06/2008, at approximately 1720 hours, DEFENDANT was retrieved from the pedestrian secondary inspection area and was brought to an interview room. The Affiant, assisted by another DSS Special Agent, and a CBP Officer, who also acted as translator, obtained consent from DEFENDANT to have his interview audio and video taped. DEFENDANT read his Miranda warning aloud in Spanish from a written copy. He indicated that he understood and waived his right to counsel. He admitted that his true name was Gabriel VIZCARRA BARRAZA, DPOB, 09/15/1966, Sinaloa, Mexico. He stated that he was a citizen of Mexico and not a citizen of the United States. DEFENDANT admitted that on or about 03/05/2008 he paid a smuggler $100 for a false U.S. Border Crossing Card (Laser Visa). He admitted that he subsequently used that visa to apply for entry into the United States at the Otay Mesa Port of Entry on or about 03/05/2008. DEFENDANT only remembered the first name on the visa was Ruben. Subsequent record check revealed the name on the visa was Ruben LEAL ORDORICA. DEFENDANT admitted that on or about 03/05/2008 he was formally removed to Mexico and informed that he was restricted from returning to the United States without permission. He admitted knowing that

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it was a violation of US law to use a visa in the name of another and to use a document obtained unlawfully to apply for admission into the United States.

6. DEFENDANT admitted that immediately upon being removed from the United States, he paid a smuggler $150 for false U.S. passport number 500604403, bearing the name Francisco Javier TORRES, which he subsequently used on or about 03/06/2008 to apply for admission into the United States at the San Ysidro Port of Entry. DEFENDANT said that he had previously been living illegally in the United States from 1999-2000. He admitted knowing that it was illegal use a US Passport in the name of another and to falsely claim to be a U.S. Citizen. He also admitted knowing that the passport was not issued or designed for his use by the United States Government. DEFENDANT made a recorded oral confession as to his true identity and to elements of the charge. A record check was conducted by Affiant which indicated that US Passport number 500604403 had been reported stolen.

On the basis of the facts presented in this probable cause statement consisting of 2 pages, I find probable cause to believe that the defendant named in this probable cause statement committed the offense on or about 03/06/2008 - in violation of Title18, United States Code, Section 1544: Misuse of a passport - when he knowingly and willfully used the passport belonging to another, Francisco Javier TORRES, knowing that it was not issued or designed for his use, in order to gain admission into the United States; and on or about 03/05/2008 – in violation of Title18, United States Code, Section 1546(a): Fraud and Misuse of Visas, Permits, and Other Documents - when he knowingly used the US Border Crossing Card (Laser Visa) that was unlawfully obtained in order to gain admission into the United States.

Richard M. Escott
Senior Special Agent
U.S. Department of State
Diplomatic Security Service